

IN THE SENATE

SENATE BILL NO. 1104

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO BEHAVIORAL HEALTH; AMENDING SECTION 39-302, IDAHO CODE, TO REVISE A DEFINITION; REPEALING SECTION 39-303, IDAHO CODE, RELATING TO THE DESIGNATION OF A STATE SUBSTANCE ABUSE AUTHORITY; AMENDING SECTION 39-304, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-3124, IDAHO CODE, TO PROVIDE FOR A CERTAIN DUTY OF THE STATEWIDE BEHAVIORAL HEALTH INTERAGENCY COOPERATIVE AND TO REMOVE CERTAIN RESPONSIBILITIES AND DUTIES OF THE STATE MENTAL HEALTH AUTHORITY; AMENDING CHAPTER 31, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3124A, IDAHO CODE, TO DESIGNATE A STATE MENTAL HEALTH AUTHORITY AND PROVIDE SPECIFIED DUTIES AND RESPONSIBILITIES FOR THE AUTHORITY; REPEALING SECTION 39-3125, IDAHO CODE, RELATING TO THE STATE PLANNING COUNCIL ON MENTAL HEALTH; REPEALING SECTION 67-821, IDAHO CODE, RELATING TO COORDINATION OF POLICY AND PROGRAMS RELATED TO DRUG AND SUBSTANCE ABUSE; AMENDING CHAPTER 8, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-821, IDAHO CODE, TO PROVIDE FOR THE BEHAVIORAL HEALTH TRANSFORMATION OFFICE, THE ADMINISTRATOR OF TRANSFORMATION AND THE STATEWIDE INTERAGENCY BEHAVIORAL HEALTH COOPERATIVE; AND AMENDING CHAPTER 8, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-822, IDAHO CODE, TO PROVIDE FOR THE STATE BEHAVIORAL HEALTH PLANNING COUNCIL.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 39-302, Idaho Code, be, and the same is hereby amended to read as follows:

39-302. DEFINITIONS. As used in this chapter, the terms defined in this section shall have the following meanings, unless the context clearly indicates another meaning:

(1) "Addiction" or "alcoholism" means a primary, chronic, neurobiological disease with genetic, psychosocial and environmental factors influencing its development and manifestations. It is characterized by behaviors that include one (1) or more of the following: impaired control over drug or alcohol use, compulsive use, continued use despite harm, and craving.

(2) "Alcoholic" means a person who has the disease of alcoholism, which is characterized by behaviors that include one (1) or more of the following: impaired control over alcohol use, compulsive use, continued use despite harm, and craving.

(3) "Approved private treatment facility" means a private agency meeting the standards prescribed in section 39-305(1), Idaho Code, and approved under the provisions of section 39-305(3), Idaho Code, and rules promulgated by the board of health and welfare pursuant to this chapter.

(4) "Approved public treatment facility" means a treatment agency operating under the provisions of this chapter through a contract with the department of health and welfare pursuant to section 39-304(7), Idaho Code,

1 and meeting the standards prescribed in section 39-305(1), Idaho Code, and  
 2 approved pursuant to section 39-305(3), Idaho Code, and rules promulgated by  
 3 the board of health and welfare pursuant to this chapter.

4 (5) "Department" means the Idaho department of health and welfare.

5 (6) "Director" means the director of the Idaho department of health and  
 6 welfare.

7 (7) "Drug addict" means a person who has the disease of addiction, which  
 8 is characterized by behaviors that include one (1) or more of the following:  
 9 impaired control over drug use, compulsive use, continued use despite harm,  
 10 and craving.

11 (8) "Incapacitated by alcohol or drugs" means that a person, as a result  
 12 of the use of alcohol or drugs, is unconscious or has his judgment otherwise  
 13 so impaired that he is incapable of realizing and making a rational decision  
 14 with respect to his need for treatment.

15 (9) "Incompetent person" means a person who has been adjudged incompe-  
 16 tent by an appropriate court within this state.

17 (10) "Interagency ~~committee cooperative~~" means the statewide be-  
 18 havioral health interagency committee on substance abuse prevention and  
 19 treatment cooperative as provided for in section ~~39-303~~ 67-821, Idaho Code.

20 (11) "Intoxicated person" means a person whose mental or physical func-  
 21 tioning is substantially impaired as a result of the use of drugs or alcohol.

22 (12) "Recovery support services" means those ancillary, nonclinical  
 23 services needed for a client to maintain substance abuse or addiction recov-  
 24 ery. These services may include transportation, childcare, drug testing,  
 25 safe and sober housing and care management.

26 (13) "Substance abuse" means the misuse or excessive use of alcohol or  
 27 other drugs or substances.

28 (14) "Treatment" means the broad range of emergency, outpatient, in-  
 29 tensive outpatient, and inpatient services and care, including diagnostic  
 30 evaluation, medical, psychiatric, psychological, and social service care,  
 31 vocational rehabilitation and career counseling, which may be extended to  
 32 alcoholics and intoxicated persons and/or drug addicts.

33 SECTION 2. That Section 39-303, Idaho Code, be, and the same is hereby  
 34 repealed.

35 SECTION 3. That Section 39-304, Idaho Code, be, and the same is hereby  
 36 amended to read as follows:

37 39-304. COMPREHENSIVE PROGRAM FOR TREATMENT. The Idaho department of  
 38 health and welfare is hereby designated as the state substance abuse author-  
 39 ity.

40 (1) The department shall establish a comprehensive and coordinated pro-  
 41 gram for the treatment of alcoholics, intoxicated persons and drug addicts.  
 42 The interagency ~~committee cooperative~~ shall direct the department in the es-  
 43 tablishment and in the content of this program.

44 (2) The program shall include:

45 (a) Emergency detoxification treatment and medical treatment directly  
 46 related thereto provided by a facility affiliated with or part of the  
 47 medical service of a general hospital;

48 (b) Inpatient treatment;

- 1 (c) Intensive outpatient treatment;
- 2 (d) Outpatient treatment;
- 3 (e) Community detoxification provided by an approved facility; and
- 4 (f) Recovery support services.

5 (3) The department shall provide for adequate and appropriate treat-  
6 ment for persons admitted pursuant to section 39-307, Idaho Code. Treatment  
7 shall not be provided at a correctional institution except for inmates.

8 (4) The department shall maintain, supervise, and control all facili-  
9 ties operated by it. The administrator of each such facility shall make an  
10 annual report of its activities to the director in the form and manner the di-  
11 rector specifies.

12 (5) All appropriate public and private resources shall be coordinated  
13 with and utilized in the program whenever possible.

14 (6) The department shall prepare, publish and distribute annually a  
15 list of all approved public and private treatment facilities.

16 (7) The department may contract for the use of any facility as an ap-  
17 proved public treatment facility if the director considers this to be an ef-  
18 fective and economical course to follow.

19 (8) The program shall include an individualized treatment plan pre-  
20 pared and maintained for each client.

21 SECTION 4. That Section 39-3124, Idaho Code, be, and the same is hereby  
22 amended to read as follows:

23 39-3124. DESIGNATION OF STATE MENTAL HEALTH AUTHORITY. The Idaho de-  
24 partment of health and welfare is hereby designated the state mental health  
25 authority. The statewide behavioral health interagency cooperative, estab-  
26 lished pursuant to section 67-821, Idaho Code, shall direct t~~The state men-~~  
27 ~~tal health authority is responsible for taking into consideration and incor-~~  
28 ~~porating the recommendations and evaluations of the state planning council~~  
29 ~~on mental health and the regional health boards in all statewide efforts to~~  
30 ~~expand, improve, modify or transform the mental health service delivery sys-~~  
31 ~~tem of the state. The state mental health authority shall identify the re-~~  
32 ~~sources necessary for these efforts to be implemented on a statewide basis in~~  
33 ~~transforming the state's existing mental health and substance use disorder~~  
34 ~~systems into a single, effective, outcome-based and recovery-oriented be-~~  
35 ~~havioral health system as provided for in section 67-821, Idaho Code.~~

36 SECTION 5. That Chapter 31, Title 39, Idaho Code, be, and the same is  
37 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
38 ignated as Section 39-3124A, Idaho Code, and to read as follows:

39 39-3124A. STATE BEHAVIORAL HEALTH AUTHORITY. (1) The Idaho department  
40 of health and welfare, as both the state mental health authority pursuant  
41 to section 39-3124, Idaho Code, and the state substance abuse authority  
42 pursuant to section 39-304, Idaho Code, shall serve as the state behavioral  
43 health authority.

44 (2) The state behavioral health authority shall:

- 45 (a) Develop and secure a shared understanding of statewide behavioral
- 46 health service standards;

(b) In coordination with the administrator of transformation and the statewide behavioral health interagency cooperative, established pursuant to section 67-821, Idaho Code, integrate those statewide behavioral health service standards into regional provider contract arrangements;

(c) Monitor the performance measures and outcomes outlined in the regional provider contract arrangements;

(d) Generate and implement a provider certification process;

(e) Secure a medicaid waiver for managed care of behavioral health services;

(f) Continue to enhance the data reporting process to support the transformation of Idaho's behavioral health system, as described in the plan adopted by the governor's behavioral health transformation work group in 2010;

(g) Facilitate the data reporting process to enable informed regional planning and input processes that can be used to generate continuous improvement to Idaho's behavioral health system; and

(h) Contract for behavioral health services with regional advisory councils and regional mental health advisory boards.

(3) The state behavioral health authority shall receive direction from the statewide behavioral health interagency cooperative in the establishment and implementation of the transformation of Idaho's behavioral health system and coordinate and communicate the status of its duties, as provided for in subsection (2) of this section to the statewide behavioral health interagency cooperative.

(4) If a regional advisory committee or a regional mental health advisory board fails to perform the level of behavioral health services required by its contract with the state behavioral health authority, the state behavioral health authority shall have the authority to deliver those behavioral health services within that region.

(5) The state behavioral health authority shall have the authority to promulgate rules to carry out its responsibilities under this chapter.

SECTION 6. That Section [39-3125](#), Idaho Code, be, and the same is hereby repealed.

SECTION 7. That Section [67-821](#), Idaho Code, be, and the same is hereby repealed.

SECTION 8. That Chapter 8, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-821, Idaho Code, and to read as follows:

67-821. BEHAVIORAL HEALTH TRANSFORMATION OFFICE -- ADMINISTRATOR OF TRANSFORMATION -- STATEWIDE INTERAGENCY BEHAVIORAL HEALTH COOPERATIVE. (1) There is hereby created in the office of the governor the "Behavioral Health Transformation Office."

(2) The office shall be administered by the administrator of transformation who shall be appointed by the governor and approved by the senate and shall serve at the pleasure of the governor.

1 (a) The administrator is the state official designated to oversee and  
2 execute the coordination of the transformation of Idaho's existing men-  
3 tal health and substance use disorder systems into a single, effective,  
4 outcome-based and recovery-oriented behavioral health system. The  
5 behavioral health system is intended to be one where Idaho citizens and  
6 their families have appropriate access to quality services provided  
7 through a system that is coordinated, efficient, accountable and fo-  
8 cused on recovery. The administrator is specifically intended to act as  
9 a daily and continuous champion for the transformation provided for in  
10 this section on a local, regional and state level.

11 (b) The administrator shall have daily responsibility and accountabil-  
12 ity for achieving the transformed system working in coordination with  
13 the statewide behavioral health interagency cooperative and shall have  
14 the authority to contract for the services required to facilitate the  
15 transformation.

16 (c) The administrator shall be responsible for:

17 (i) Managing and achieving the transformation vision and goals  
18 articulated in the 2010 plan adopted by the governor's behavioral  
19 health transformation work group, created pursuant to executive  
20 orders 2009-04 and 2010-01;

21 (ii) Serving as the chairman of the statewide behavioral health  
22 interagency cooperative, coordinating its respective, equitable  
23 participation in the transformation process and system on an oper-  
24 ational, programmatic and policy level;

25 (iii) Serving as the liaison to the regional advisory committees,  
26 as provided for in section 39-303A, Idaho Code, and the regional  
27 mental health advisory boards, as provided in chapter 31, title  
28 39, Idaho Code, to help facilitate the development of a viable re-  
29 gional and/or local community behavioral health delivery system  
30 while honoring entity and agency roles, responsibilities and ac-  
31 countabilities;

32 (iv) Ensuring that the inputs and priorities of the regional ad-  
33 visory committees, regional mental health advisory boards and the  
34 statewide behavioral health interagency cooperative are effec-  
35 tively used to guide the development of regional provider networks  
36 that deliver services based on consistent statewide standards;

37 (v) Coordinating the development of statewide or series con-  
38 tracts in a manner that reflects regional priorities, meets agency  
39 accountability and reporting requirements, reflects consistent  
40 statewide standards and maximizes the use of the taxpayer dollar;  
41 and

42 (vi) Refining and focusing the transformation effort over time as  
43 implementation lessons are learned, research and best practices  
44 are identified, considered and applied as appropriate and as eval-  
45 uation measurements inform strategic direction.

46 (d) The administrator shall have the following minimum qualifications:

47 (i) Considerable knowledge of policy and procedures for all  
48 branches of state and local government;

49 (ii) Demonstrated understanding and/or experience with govern-  
50 ment systems, judicial processes and systems evolution;

- (iii) Demonstrated understanding and/or experience with public behavioral health delivery systems and consumer and family needs;
- (iv) Considerable knowledge of quality, outcome-based, cost-effective treatment for a behavioral health system of care, including substance use disorders, persistently mentally ill and children with emotional disorders;
- (v) Demonstrated leadership skills;
- (vi) Competency in management; and
- (vii) Demonstrated ability to:
  1. Hire and supervise staff;
  2. Interpret and apply laws, rules and regulations;
  3. Develop and implement new policy and procedures;
  4. Facilitate, coordinate and communicate effectively with diverse groups of stakeholders and the public;
  5. Support contractual and fiscal responsibilities;
  6. Manage complex projects; and
  7. Solve problems.

(e) Subject to available funding, the administrator shall have the authority to hire and contract for staff to assist in the performance of the administrator's responsibilities. Each agency member of the statewide behavioral health interagency cooperative shall assist in the performance of these responsibilities by assigning staff to work with the administrator and the office.

(3) There is hereby created within this office the "Statewide Behavioral Health Interagency Cooperative."

(a) The statewide behavioral health interagency cooperative shall:

- (i) Work in coordination with the administrator to secure a coordinated and effective system;
- (ii) Work in close coordination with all local and state governments, and specifically with the governor and members of the senate and house of representatives committees on health and welfare;
- (iii) Ensure the implementation of the transformation of Idaho's behavioral health system, as described in the plan adopted by the behavioral health transformation work group in 2010, by providing for efficient and effective interagency coordination of systems, operations, services and funding;
- (iv) Recommend statutory changes to the 2012 session of the Idaho legislature to implement the transformation of Idaho's behavioral health system, as described in the plan adopted by the behavioral health transformation work group in 2010, including recommendations for funding;
- (v) Work with the regional advisory committees, the regional mental health advisory boards, the Idaho department of health and welfare and the administrator of transformation to develop standards, data, needs, priorities and funding coordination that will further inform the development of a behavioral health delivery system featuring regional provider networks;
- (vi) Explore how to best leverage the taxpayer dollars to get the most appropriate services to consumers and families at the most appropriate times, locations and costs; and

- (vii) Meet as needed, but no less than on a monthly basis.
- (b) The members of the statewide behavioral health interagency cooperative shall be:
- (i) The director of the Idaho department of health and welfare;
  - (ii) The director of the Idaho department of correction;
  - (iii) The director of the Idaho department of juvenile corrections;
  - (iv) The Idaho superintendent of public instruction;
  - (v) The administrative director of the courts;
  - (vi) One (1) representative from among the counties, appointed by and serving at the pleasure of the Idaho association of counties; and
  - (vii) The chairman of the state behavioral health planning council, created pursuant to section 67-822, Idaho Code, or the chairman's designee, representing consumers and families of individuals receiving behavioral health services, appointed by and serving at the pleasure of the council.
- The governor may appoint additional ex officio members to the statewide behavioral health interagency cooperative who shall serve at the pleasure of the governor.
- (c) The administrator shall serve as the chairman of the statewide behavioral health interagency cooperative.

SECTION 9. That Chapter 8, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-822, Idaho Code, and to read as follows:

67-822. STATE BEHAVIORAL HEALTH PLANNING COUNCIL. (1) There is hereby created within the office of the governor the "State Behavioral Health Planning Council." The purpose of the council is to:

- (a) Serve as an advocate for adults with a mental illness, for children and adolescents with emotional disorders and for individuals with substance use and co-occurring disorders;
- (b) Review the state behavioral health systems plan, advise the state behavioral health authority on issues of concern, policies and programs, and provide guidance to the state behavioral health authority in the development and implementation of the plan;
- (c) Monitor and evaluate the allocation and adequacy of behavioral health services within the state on an annual basis;
- (d) Serve as a vehicle for intra-agency and interagency policy and program development; and
- (e) Present to the governor and the legislature by June 30 of each year a report on the council's achievements and the impact on the quality of life that behavioral health services has on citizens of the state, incorporating the recommendations made by the regional advisory committees and the regional mental health advisory boards.

(2) The composition of the behavioral health planning council shall conform to the requirements in 42 U.S.C. section 300x-3(c), and shall include:

- 1 (a) One (1) representative from each of the seven (7) regions appointed  
 2 by the region's regional advisory committee and the regional mental  
 3 health advisory board, acting jointly;  
 4 (b) One (1) member appointed by the director of the Idaho department of  
 5 health and welfare with expertise in medicaid;  
 6 (c) One (1) member appointed by the director of the Idaho department of  
 7 correction with expertise in behavioral health;  
 8 (d) One (1) member appointed by the director of the Idaho department of  
 9 juvenile corrections with experience in behavioral health;  
 10 (e) One (1) member appointed by the Idaho superintendent of public in-  
 11 struction;  
 12 (f) Up to six (6) members appointed by the governor, subject to the fol-  
 13 lowing criteria:  
 14 (i) No member appointed by the governor shall be an employee of  
 15 the state of Idaho or shall be a provider of mental health ser-  
 16 vices;  
 17 (ii) The ratio of parents of children with an emotional distur-  
 18 bance to other members of the council is sufficient to provide ad-  
 19 equate representation of such children in the deliberations of the  
 20 council;  
 21 (iii) At least one (1) such member shall be a representative of a  
 22 mental health or substance use disorder advocacy nonprofit organ-  
 23 ization; and  
 24 (g) Three (3) ex officio members:  
 25 (i) One (1) member of the Idaho senate, as appointed by the presi-  
 26 dent pro tempore of the senate;  
 27 (ii) One (1) member of the Idaho house of representatives, as ap-  
 28 pointed by the speaker of the house of representatives; and  
 29 (iii) One (1) member appointed by the Idaho supreme court to repre-  
 30 sent the judicial branch of Idaho government.  
 31 Members of the council shall serve at the pleasure of the appointing entity.  
 32 (3) The council shall elect a chairman and a secretary who shall serve  
 33 two (2) year terms from the date of election.  
 34 (4) The behavioral health planning council may establish subcommittees  
 35 at its discretion.  
 36 (5) The chairman of the council or his designee shall serve on the  
 37 statewide behavioral health interagency cooperative established pursuant  
 38 to section 67-821, Idaho Code.